



A DOCPHOENIX

Advisory Action

Application No.

09/741,426

Applicant(s)

DARE, AKINTADE OYEDELE

Examiner

Jeanine A Goldberg

Art Unit

1634

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 February 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.


The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.Claim(s) objected to: NONE.Claim(s) rejected: 1-11, 14, 15, 18 and 19.Claim(s) withdrawn from consideration: NONE.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 5. does NOT place the application in condition for allowance because: With respect to the Pierce Instructions copyright January 1997, the response asserts that the examiner has not established that the information was publicly available as required by MPEP 2128. This argument has been thoroughly reviewed, but deemed not persuasive because based upon the information provided by Pierce Company, 3747 N. Meridian Road, P.O. Box 117, Rockford Illinois 61105-0117. USA, the product was provided publicly with their product. With respect to applicant's requests for additional evidence that the product instructions were publicly available, the examiner provides page 1 of the fax received from Pierce Company stating that the instructions were prepared 1/97 and the product went to stock the following month. Therefore, based upon the evidence provided by Pierce Company, the distribution of the product and product instructions occurred by Pierce and was available to the public prior to the instant invention.

Continuation of 10. Other: A copy of the complete fax from Pierce Company is enclosed comprising two pages received via fax on January 13, 2003..


W. Gary Jones
Supervisory Patent Examiner
Technology Center 1600

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Name: Jeanine Goldberg	Date: January 13, 2003
Affiliation: US PTO	Call # 490206 VIP# 549901
Fax Number: 703-746-5149	Page 1 of 2

Dear Jeanine:

Here is a copy of the original instructions for the Reacti-Bind DNA Coating Solution, Product No. 17250. The original instructions were prepared 1/97 and the product went to stock the following month.

I hope this helps. Thank you for using Pierce products.

Sincerely,

Douglas A. Hayworth, Ph.D.
Pierce Technical Assistance

INSTRUCTIONS

TECHNICAL
ASSISTANCE COPY  PIERCEReacti-Bind™
DNA Coating Solution3747 N. Meridian Road
P.O. Box 117
Rockford, IL 61105

17250

0698

*old version***Product Description**

Number	Description
17250	Reacti-Bind™ DNA Coating Solution, 100 ml

Store product at room temperature.

Introduction

Immobilization of DNA onto solid surfaces may be accomplished by various means. Since DNA has a low binding affinity to unmodified microtiter plate surfaces and other plastic surfaces, many researchers have utilized binding proteins such as avidin to capture biotinylated DNA. Utilizing avidin precoated surfaces has the disadvantage that it requires biotinylation of the DNA. Some researchers have described chemical binding of DNA through the phospho-groups to specially manufactured plates containing amino groups. These procedures are costly, and have not found widespread use.

Pierce researchers have developed the Reacti-Bind™ DNA Coating Solution as a quick, simple and cost effective method of immobilizing DNA onto plastic surfaces. This method results in a chemical bonding of the DNA to most general laboratory plastic surfaces such as polystyrene (microtiter plates and similar) and polypropylene (Eppendorf™ tubes).

- * Oligonucleotides will also bind to plastic surfaces with this solution. We have not established any lower limit of size for binding.

Although this solution coats the DNA to the surface, you should empirically establish whether or not the bound DNA is suited for your following experiments. Procedures such as hybridization are more likely to be successful with this type of immobilized DNA than more complex enzymatic manipulations.

Example Protocol

1. In a glass test tube, combine up to 1 volume of the DNA solution (in water or TE buffer) with 1 volume of Reacti-Bind™ DNA Coating Solution. Mix for 10 minutes. The final DNA concentration should be between 0.5 - 5 µg/ml.
2. Add the mixture from step 1 to the microtiter wells or plastic test tubes (such as Eppendorf™ tubes) that you wish to coat the DNA onto.
3. Incubate overnight at room temperature with gently agitation or occasional mixing.
4. Wash away any non-bound DNA with a wash solution compatible with the next step in your procedure. Buffers such as TBS (Prod. No. 28376) and PBS (Prod. No. 28374) have been used.

Eppendorf is a trademark of Eppendorf, Germany.
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